



FINAL

**WEARE BOARD OF SELECTMEN
MEETING MINUTES**

June 22, 2009

PRESENT: Thomas Clow, Chairman; Richard Butt, Vice-Chairman; Donna Osborne, Selectman, James Donison, Selectman.

NOT PRESENT: Selectman Keith Lacasse

RECORDING SECRETARY: Naomi Bolton

GUESTS: Chief Gregory Begin; James Carney; Jan Snyder

I. CALL TO ORDER:

The meeting was called to order by Chairman Clow at 7:02 PM.

II. NON-PUBLIC SESSION:

Selectman Clow moved to go into non-public session under RSA 91A:3 II (a & c) at 7:03 PM; Selectman Osborne seconded the motion. A roll call vote was taken: Selectman Butt – yes; Selectman Osborne – yes; Selectman Clow – yes; Selectman Donison – yes.

Present were Chairman Thomas Clow, Vice Chairman Richard Butt, Donna Osborne, James Donison and Chief Gregory Begin.

Selectman Clow moved to come out of non-public session at 7:15 PM. Selectman Butt seconded the motion. A roll call vote was taken: Selectman Butt – yes; Selectman Osborne – yes; Selectman Clow – yes; and Selectman Donison – yes.

Selectman Clow moved to seal and restrict the minutes of the non-public pursuant to the authority granted in RSA 91-A:3 II; Selectman Donison seconded the motion. Motion passed 4-0.

III. GRANT APPLICATIONS:

Chief Begin stated that he wanted to keep the board apprised of any grants that he has applied for. The Highway Speed and DWI grants are nearing their final phase. These applications need to be signed so that Chief Begin can get them back for final approval. These are done every year for DWI and Speed grants. They are more important this year than in previous years as they have gotten more

calls than in the past. It is done in 4 hour time frames and they can only be used for speeding and DWI's. This is highway safety money that has always been there. Last year was the only year they haven't done it. Chief Begin needs approval for Chairman Clow and Chief Begin to be allowed to sign the application. This is a free and clear grant. The officers put in 4 hour blocks at the end of their shifts to patrol for speeders and potential DWI's. The grant pays the overtime rate. The grant is for \$5,229.38 for each application, Weare DWI and Weare Enforcement Patrols. Selectman Butt stated that the only problem he can see is that we have to spend money out of the operating budget and then put it back into the general fund. Chairman Clow stated that he felt that he thought where it is an offsetting Grant Tina Connor, Finance Administrator can keep it aside to offset the cost. Chief Begin would like to recommend to the board that we have a public hearing to accept the five grants that he has applied for. These two (2) grants run from June 1st through September 15th. The board agreed to schedule the public hearings for Monday, July 13th. Selectman Butt moved to authorize the Police Chief to sign the Weare DWI and the Weare Enforcement Grant paperwork; Selectman Osborne seconded the motion. Motion passed: 4-0.

Chief Begin wanted to inform the Board that he got a very nice letter from a lady in Nashua who was looking for her brother.

IV. MANIFESTS:

Chairman Clow moved to authorize the Board of Selectmen to sign manifests and order the Treasurer (Deputy) to sign checks dated June 25, 2009 in the following amounts:

Accounts Payable	\$ 695,803.29 (Weare School \$650,000.00)
Gross Payroll	<u>\$ 46,051.73</u> (Includes Spec.Details, Taxes, Credit Union)
TOTAL	\$ 741,855.02

Selectman Osborne seconded the motion. Discussion: Chairman Clow informed the board that he did inquire about the back to back school payments in the exact amount and found that was correct. The balance due the school was just split exactly in half for ease of finances. There was also a comment made that on one pay stub there is a negative balance in bonus days and Tina Connor, Finance Administrator will be switching that into vacation days. Vote: Passed 4-0

V. LETTER OF RESIGNATION:

Chairman Clow informed the board that we have received a letter of resignation from Diane Lamb, Tax Collector. Chairman Clow moved to accept the letter of resignation effective July 3, 2009; Selectman Osborne seconded the motion, all in favor.

VI. WORK SESSION ON PERSONNEL POLICY:

Chairman Clow stated that we are here to continue the Board's revision of the personnel policy. The Board left off at Section VI Separation for Employment. The following sections were discussed and the following changes are what the

Board agreed to by consensus. The changes are in *italics* and what is being eliminated is done with ~~striketrough~~.

VI. SEPARATION FOR EMPLOYMENT

A. Layoff / Recall / Rehire – In the event a former employee seeks re-employment with the Town, the former employee shall be considered a new applicant, to be considered with all other applicants.

The Department Head or Supervisor *with the approval of the Board of Selectmen* may lay off employees for any of the following reasons, among others:

- 1) Reorganization resulting in the abolition of positions;
- 2) Shortage of work;
- 3) Shortage of funds

An employee who is being laid off shall be notified in writing by the Department Head or Supervisor at least thirty (30) days prior to the effective date of such action.

An employee shall be recalled from lay-off in the inverse order of lay-off by classification and department involved unless the Department Head deems that special job skills are required for the efficiency and effectiveness of the department. A laid-off employee shall be eligible for recall if the recall notice is issued within twelve (12) months from the date of lay-off and the employee continues to meet the qualification requirements of the classification.

Failure by an employee to report to work in accordance with the provisions of a recall notice shall result in loss of all rights of recall. A written recall notice will be provided to employees who are eligible for recall and shall be sent to the last address provided by the employee. The employee must notify the Department Head or Supervisor in writing five (5) days after receiving the notice of recall of his/her intention to return to work. Failure by the employee to fulfill this obligation shall represent a decision not to accept the recall. It shall be the obligation of the employee to immediately notify the Department Head in writing of any changes in mailing address during the twelve (12) month period following lay-off.

B. Resignation – Resignations should be submitted in writing to the Department Head or Supervisor stating the final date of employment. *The Department Head will immediately notify the BOS of the resignation.* To facilitate a smooth termination, employees are encouraged to provide at least ten (10) working days notice prior to the effective date of resignation. The Town reserves the right to accept the resignation immediately. Prior to the effective date of the resignation, the employee shall be afforded the

opportunity to meet with the Board of Selectmen for an exit interview. *The Department Heads will be required to submit their resignation to the BOS at least 30 days prior to their leaving.*

C. Termination – Employment with the Town of Weare is at-will and the Town retains the right to terminate employment at any time. Upon the recommendation of the Department Head or immediate Supervisor, or upon its own motion, the Board of Selectmen may vote to terminate an employee. The employee shall be advised of the termination in writing and a copy of the notice shall be placed in the employee's personnel file. The notice shall state the effective date of the termination. No employee shall be entitled to any notice or hearing prior to the decision of the Board of Selectmen to terminate.

Employees who have accrued unused sick time at termination may be compensated at the discretion of the Board of Selectmen. The Town is NOT obligated to pay any sick time on termination.

VII RETIREMENT AND BENEFITS

A. Retirement – The Town contributes to the N.H. Retirement System for full-time employees working thirty-five (35) hours or more per week. Contribution rates are set by the State.

B. Medical Insurance – The Town provides full-time employees with not less than 80% of the monthly premium for single, two person, or family coverage as appropriate to his/her family status. The Board of Selectmen reserves the right to choose the carrier and to amend its benefit plans, including deductibles, co-pays and employee contributions.

~~Town employees who work less than thirty five (35) hours per week are eligible to purchase at their expense single, two person, or family coverage, as appropriate to his/her family status.~~

The town will pay a proportionate share of coverage for regular part-time employees who work 25 hours or more per week based on the ratio of hours worked to a 40 hour work week

In accordance with New Hampshire and Federal law, employees may upon separation from Town employ remain on the Town's medical plan for up to eighteen (18) months. In such a situation, employees must pay the entire monthly premium. Details and paperwork will be provided at termination from the carrier.

C. Medical Insurance Opt Out Program – Employees who are eligible for health insurance benefits may elect to opt out of such benefits and

receive a cash stipend in lieu of benefits. The stipend will be equal to fifty percent (50%) of the amount of the premium which the Town would have paid for the employee's benefits. Any current employee wishing to opt out of the insurance must provide written notice to the Town during the annual open

renewal period and must also provide proof of other insurance. Re-enrollment would again have to occur during the annual open renewal period (June). New employees may choose this option at the time of hire. Also must show proof of their insurance. Stipends shall be paid on a quarterly basis. ~~The stipend will be prorated for any new employee who opts out during a quarter.~~

D. Dental Insurance – Dental insurance is available but at the expense of the employee. The premium will be deducted weekly from the employee's paycheck.

E. Workers Compensation – All injuries, whether major or minor, sustained in the course of regular Town work, must be reported immediately (24 hours) to the employee's Supervisor or Department Head. Failure to report may result in disciplinary action up to and including termination.

~~Worker's compensation will reimburse an employee an amount equal to 60% of an employee's average weekly wage within the limits prescribed by state statute. The 60% reimbursement shall be calculated after any wages earned under the Temporary Alternate Duty program have been deducted.~~

F. Uniform Allowance – All uniforms, as required by a department, shall be supplied and maintained by the Town.

G. Longevity Bonus – All full-time employees who have completed a minimum of 10 years of Town service become eligible for a yearly Longevity Bonus as follows:

10 – 14 years	\$ 250.00
15 – 19 years	\$ 500.00
20 years & beyond	\$ 750.00

Longevity Bonuses are awarded yearly after April 1st. Years of service as described above must be reached prior to the April 1st date to qualify for that year's bonus.

VIII. HEALTH AND SAFETY

A. Town Vehicles / Safety Belts – ~~Certain employees of the Town of~~

Weare *employees who are* ~~may be~~ assigned a Town vehicle or required to use a Town vehicle as part of their normal work function. It is required that employees using Town vehicles will operate them in a safe and appropriate manner and will at all times obey the traffic and highway safety laws of the State of New Hampshire. Failure to do so will result in disciplinary *action* up to and including termination.

Town vehicles are to be used only for official Town business, not personal. Employees and occupants are required to use seatbelts when operating or riding in any Town vehicle, unless the vehicle is not equipped with them. The seatbelt requirement also pertains to anyone using their personal vehicle while conducting Town business. Employees found to be violating this policy may be subject to disciplinary *action* up to and including dismissal.

B. Drug-Free Workplace Program – It is hereby declared to be the policy of the Town of Weare to establish a drug-free workplace. It is expected that each and every employee of the Town shall cooperate in fulfilling our obligation to and comply with all the rules and regulations pertaining to making the workplace drug-free. To further implementation of the drug-free workplace program, the Board of Selectmen is designated to coordinate efforts which may include, but not necessarily be limited to, the following:

- Inform employees about the dangers of drug abuse in the workplace.
- Notifying employees that unlawful manufacture, distribution, possession, or use in the Town of Weare is prohibited.
- Requiring an employee convicted of any criminal statute for a violation occurring in the workplace must notify the Town no later than five (5) days after a conviction.
- Notifying the federal sponsoring agency, within ten (10) days after receiving the notice from the employee.
- Instituting appropriate action within thirty (30) days of receiving notice from the employee as stated above.
- Reaffirming the drug-free workplace policy on a regular basis and making appropriate changes or additions that may be necessary to assure the effectiveness of this program and to maintain compliance with the federal requirements.

C. Reports of Misconduct Whistle Blower Protection – Protection is available to employees who report violations of law or refuse to execute illegal directives, participate in investigations, or hearings. An employer cannot discharge, threaten, or discriminate against any employee.

IF the employee, in good faith, reports or causes to report an alleged violation.

OR participates in an investigation, hearing, or inquiry conducted by any governmental entity or any court.

OR the employee refuses to execute a directive which violates any law or rule adopted by this State of political subdivision of the United States.

ONLY if the employee first brought the alleged violation to the attention of a person with supervisory authority unless the employee believes reporting to the employer is futile.

Rights and Remedies – A hearing with the N.H. Department of Labor Department which can result in a judgment to order reinstatement, payment of fringe benefits, seniority rights, and injunctive relief would be available.

In the Town of Weare, the employee *may* ~~would~~ report a violation to any of the following persons:

~~Employee's Department Head or Direct Supervisor~~

- Employee's Department Head or Direct Supervisor
- Town Administrator
- Chairman or any member of the Board of Selectmen

D. Drug and Alcohol Policy – Reference:

1. 49 CFR - Federal Motor Vehicle Safety
2. Drug Free Work – Place Act 1988
(Pub. Law 100-690 Title V)

1. Purpose – This delineates the policy under which the Town of Weare will comply with Federal Highway Administration mandates, of reference (A), prohibiting the use of certain controlled drugs and alcohol by employees who, by position or function, perform safety sensitive functions that require the possession of a Commercial Drivers License (CDL). Within this policy are the procedures for testing, record keeping and enforcement that will be used by the Town to monitor and ensure compliance.

2. Background/Discussion – It is the policy of the Town, under guidelines of reference (B), that all of its work sites, facilities and vehicles are free from alcoholic beverages and illegal substances and that employees not report for duty in a condition that renders them unable to perform safely and properly. Specifically, the Town's general policy:

- Prohibits the use, possession, dispensing, distribution or manufacturing of any alcoholic beverage or controlled substance by a Town employee on Town premises, work sites, vehicles, or equipment, except when securing or transporting such substance as legal evidence for law enforcement purposes

- Prohibits any employee from performing work duties in an impaired condition resulting from use of alcohol or controlled substances.
- Requires employees to notify their Department Head, within five days, of conviction of a violation of a criminal drug statute if the violation occurred in the work place or while on duty.
- Provides for disciplinary action, up to and including termination, and/or required satisfactory participation in an approved assistance or rehabilitation program as a condition of continued employment.

Beyond this overall commitment to a drug and alcohol free work place, the Town and employees who perform duties requiring a CDL will adhere to the requirements set by the Federal Highway Administration. The Federal Highway Administration requires all employers, including the Town of Weare, to implement and administer specific anti-drug and alcohol abuse programs and a regulated drug and alcohol testing program for those covered employees. The intent of all of these programs and policies is to help prevent accidents and injuries resulting from the misuse of alcohol or the use of controlled substances.

3. Definitions (Extracted from reference (A))

- A. **Covered Employee**: Any Town employee who must have a valid CDL as a condition of employment. Employees who possess a CDL but are not required to as a condition of employment, will not be assigned to duties requiring a CDL unless they meet the same criteria and participate in the same drug testing program as covered employees.
- B. **Screening Testing**: Any initial test for the presence of controlled substances. Any non-negative test will result in confirmation testing.
- C. **Confirmation Testing**: A second independent analytic determine the specific procedure to determine the specific drug or metabolite involved.
- D. **Safety Sensitive Function**: An employee is considered performing a safety sensitive function when performing, preparing to perform or having just completed any of the following activities:
1. All driving time in a Commercial Motor Vehicle (CMV) or heavy equipment such as loaders, graders, excavators or any other vehicle or equipment weighing 26,001 lbs. or more.
 2. All inspecting, servicing, maintaining or conditioning of any

CMV.

3. All time, in or on a CMV, other than driving.
4. All time loading, unloading or preparing a CMV or supervising activities.
5. All time in readiness, or on call, in readiness to operate a CMV or waiting to be dispatched.
6. All time repairing, obtaining assistance or remaining in attendance of a disabled CMV.
7. All time responding to or investigating accidents.

E. **Substance Abuse Professional:** A licensed physician, or licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

F. **Responsibilities:** The Town of Weare, as the employer:

1. Administer and execute the provisions of this policy and defining regulations. The Public Works Director under the direction of the Board of Selectmen will be the Coordinator of the program for the Town.
2. Pay all costs for mandatory testing, training and record keeping. The Town may contract for testing and other services related to this policy and will ensure that procedures used for testing meet the requirements of reference (A), Part 40. The Town will closely monitor contractor performance to protect the employees, ensure the integrity of the testing possesses, and safeguard the validity and attributability of the test results.
3. Provide annual training for all covered employees on the content of this policy and governing directives. Additional training will be provided when changes in the policy or those directives occur. (Material to be provided to employees is outlined in 49 CFR 382.601)
4. Provide specifically targeted training for supervisors and management personnel responsible for the performance of covered employees. This training will consist of a minimum of one hour of training on the recognition of alcohol abuse and one hour on the

recognition of the abuse of controlled substance use including the physical, behavioral, speech, and performance indicators or probable use or abuse. E

5. Ensure confidentiality of individual employee records kept under provisions of this policy and governing directives. Except as required by law or expressly authorized or required by the governing directives, employee records will be released to individuals or outside agencies only with the written authorization of the employee which indemnifies the Town.
6. Provide anti-drug use and anti-alcohol abuse training. Information on counseling and rehabilitation service will be provided through the Employee Assistance Program (EAP) or the Personnel Department.

G. **Supervisors:** Responsible for the safety and performance of employees assigned to them, will:

1. Prohibit employees, about whom they have actual knowledge of prohibited conduct, from performing or continuing to perform safety sensitive functions.
2. Observe and monitor the physical characteristics, conduct, behavior and performance of assigned employees for indications that they may be under the influence of drugs or alcohol. When personal observation provides reasonable suspicion, the employee will be immediately prohibited or removed from safety sensitive functions and directed to submit to appropriate testing.
3. Fully document, in writing within 24 hours, the circumstances, conditions and observances that resulted in the removal of an employee from safety sensitive functions.
4. Immediately report to the responsible department head and program coordinator any violation of prohibited activities or prescribed procedures.
5. Ensure the employees are scheduled for and attend required training.
6. Make strong effort, short of detaining an employee against his/her will, to arrange transportation to the employee's residence whenever an employee is prevented from reporting for or removed from duty in accordance with this policy.

H. **Employees:** Whose duties require a valid CDL, will:

1. Submit to and cooperate with mandated drug and alcohol testing as delineated.
2. Not report for duty or remain on duty in any position requiring the performance of safety-sensitive functions while using any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a CMV. Employees must provide written notice from a medical professional to their department head and the program coordinator of any therapeutic drug use.
3. Not report for duty or remain on duty in any position requiring the performance of safety-sensitive functions while under the influence of alcohol. An alcohol concentration greater than 0.02 will preclude assignment to safety-sensitive functions.
4. Not use alcohol while performing safety-sensitive functions.
5. Not consume alcohol within four hours prior to performing safety sensitive functions.
6. Not consume alcohol after an accident that requires alcohol testing for eight hours or until tested, whichever comes first.
7. Report immediately to their supervisor any disqualification or incidents that may result in disqualification that occur on or off duty.
8. Properly participate and successfully complete any rehabilitation program prescribed by a substance abuse professional.

I. **Testing:** In accordance with Part 40 reference (a) Requirements for controlled substance testing: ALL TOWN EMPLOYEES WILL BE TESTED BY THE CONTRACTED CONSORTIUM.

1. **Random Testing:** Periodic, unannounced, scientifically random selection of covered employees, identified by their social security number, will determine participants to meet the annual requirement for random controlled substance testing. The percentage of covered employees tested will be at least 50 percent, or the minimum percentage applicable for that calendar year as promulgated by the FHWA Administrator.

2. Post Accident Testing: Any employee performing safety-sensitive functions with respect to a Town CMV involved in an accident will be drug tested as soon as practicable, within 32 hours of that accident, if; the accident involved loss of human life; or a citation for moving violation under State or local law. Testing conducted by Federal, State or local officials having independent authority, conforming to applicable requirements may be considered to meet this requirement.
3. Reasonable Suspicion Testing: Testing will be required whenever an appropriately trained supervisor or management official observes specific, contemporaneous articulable conditions of appearance, behavior, speech or body odors and including chronic or withdrawal symptoms indicating the use of a controlled substance by a covered employee.
4. Pre-employment Testing: Prior to any final offer of employment, any applicant who will perform safety-sensitive function must be tested for controlled substances with a negative result. Employees seeking internal transfer or promotion to positions requiring CDL's will not be assigned to that position or allowed to perform safety-sensitive functions until a controlled substance test with negative results has been completed. Anyone who has taken any extended leaves of absence must be tested prior to returning to that position.
5. Return to Duty Testing: A controlled substance test with verified negative results must be completed for any employee who has previously tested positive before the employee may return to duty requiring the performance of safety-sensitive functions.
6. Follow-up Testing: Following return to duty after removal for controlled substance use, an employee who has completed a prescribed rehabilitation program, will be tested for at least 6 times in the first twelve months after return. Further follow-up testing may be conducted for up to 60 months.

Selectman Butt stated that he will check with Henniker regarding what an employee would lose if you don't give the 30 days notice.

The Board stopped this work session just before the section entitled "E. Anti-Harassment".

VI. NON-PUBLIC SESSION:

Selectman Clow moved to go into non-public session under RSA 91A:3 II (a & c) at 9:12 PM. Selectman Osborne seconded the motion. A roll call vote was taken:

Selectman Butt – yes; Selectman Osborne – yes; Selectman Clow – yes; Selectman Donison – yes.

Selectman Clow moved to come out of non-public session at 9:35 PM. Selectman Butt seconded the motion. A roll call vote was taken: Selectman Butt – yes; Selectman Clow – yes; Selectmen Donison – yes.

Selectman Butt moved to seal and restrict the minutes of the non-public pursuant to the authority granted in RSA 91A:3 II. Selectman Donison seconded the motion. Motion passed 3-0.

VII. ADJOURNMENT:

As there was no further business to come before the board the board adjourned at PM.

Respectfully submitted,

Naomi L. Bolton
Land Use Coordinator